

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DAVID N. TERHUNE,)
Plaintiff,)
v.) C.A. No. 06-360-KAJ
APPLIED EXTRUSION)
TECHNOLOGIES, INC., JACKSON)
CRAIG and TERRY SMITH,)
Defendants.)

MOTION TO DISMISS

Defendants Applied Extrusion Technologies, Jackson Craig and Terry Smith (collectively, the “Defendants”) hereby move, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) to dismiss Count I of the Complaint for failure to state a claim, to dismiss Counts II, III and IV of the Complaint for failure to state a claim or in the alternative for lack of subject matter jurisdiction, and to dismiss Counts V, and VI for lack of subject matter jurisdiction. The grounds for this Motion are more fully set forth in the Opening Brief in support of this Motion, filed contemporaneously herewith.

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CERTIFICATE OF SERVICE

I, David E. Moore, hereby certify this 5th day of July, 2006, that the foregoing document was hand delivered to the following counsel of record and was electronically filed with U.S. District Court District of Delaware via CM/ECF (Official Court Electronic Document Filing System), which will send notification to registered counsel of record that the document is available for viewing and downloading via CM/ECF:

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